

# ASUCI Judicial Board

## Hirschberg et. al. v. ASUCI

Justice Brynildson delivers the decision of the ASUCI Judicial Board, joined by Justice Brown, Kunitskiy, Hernandez and Komeili.

The ASUCI Judicial Board held a hearing on November 3<sup>rd</sup>, 2010 regarding the allocation of student funds for Israel Apartheid Week. The Muslim Student Union received approximately five thousand dollars for this event from the Student Programming Funding Board. 911 complaints were filed by students who felt that their student fees should not have been used to support the Muslim Student Union's event.

I

The Petitioners argue that ASUCI violated UCI Policy 83.20, which states:

“Compulsory student government fees may be used for educational purposes germane to the University's mission, including support for registered campus organizations and student activities. However, such fees may not be used to support organizations or activities which are predominantly political, ideological, or religious.”

However, UCI's policy was not updated to reflect the UC system-wide policy, which eliminated 83.20 in 2004. UCI's policies are modeled after UC policy and UC policy has ultimate authority over all UC campuses. This is stated in the UC Policies Applying To Campus Activities, Organizations and Students, Section 12: *Applicability*:

“These *Policies* and the campus regulations implementing them apply to all campuses and properties of the University and to functions administered by the University, unless in special circumstances the President directs otherwise.”

II

The Petitioners proved to the satisfaction of the Judicial Board that ASUCI funded a predominantly ideological and political activity, thereby violating published UCI policy.

However, UC Policy 86.31, which supersedes UCI Policy, states:

“Such sponsored events supported in whole or in part by compulsory campus-based student fees need not avoid controversial political, religious, or ideological content, subject to the understanding that under current University policy (see Section 30.20 of the Policy on Speech and Advocacy) campuses have a responsibility to assure an ongoing opportunity for the expression of a variety of viewpoints.”

The Judicial Board has therefore concluded that, pursuant to UC Policy 86.31, ASUCI acted within its authority in allocating funds to the Muslim Student Union for the Israeli Apartheid Week. UCI Policy 83.20 was invalid long before funding allocations were made to MSU for Apartheid Week.

### III

Despite the fact that ASUCI acted in compliance with UC policy, it is the opinion of the Board that ASUCI should establish a *pro rata* refund to the petitioners due to UC Irvine policy being misrepresented to the students. This is made possible by UC Policy 86.13:

“A student government in consultation with the campus, or a campus with the concurrence of the student government, may at its discretion establish and administer a mechanism providing for a pro rata refund to any student of that portion of his or her student government fees that are allocated by a student government or other campus entity to support a particular Registered Campus Organization or Registered Campus Organization-related program or activity. Establishment of such a refund mechanism is not required either as a matter of University policy or the law.”

The power to mandate such a refund rests with a joint entity of ASUCI and the University that to date has not been established. Thus, we recommend that ASUCI, in fulfilling its duties to serve its constituents, should act immediately to establish this committee. This recommendation is made with the understanding that ASUCI is not in any way mandated to establish such a committee.

The Judicial Board of the Associated Students of the University of California, Irvine, on this day, November 15, 2010, has ruled on this issue.

It is so ordered.

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Aaron Brynildson,  
Associate Justice

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Armeen Komeili,  
Chief Justice

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Curt Brown,  
Vice-Chair

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Felipe Hernandez,  
Associate Justice

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Dmitriy Kunitskiy,  
Associate Justice